

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants: David Jay Duffield

Examiner: Chokshi, Pinkal R

Serial No: 10/580,806

Group Art Unit: 2425

Filed: May 25, 2006

Docket: PU030224

For: BROADCAST CONDITIONAL ACCESS SYSTEM WITH IMPULSE
PURCHASE CAPABILITY IN A TWO WAY NETWORK

Mail Stop Appeal Brief-Patents
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Applicant appeals the status of Claims 1, 2, 4-8 and 10-13 as presented in response to the non-final Office Action dated March 11, 2010, pursuant to the Notice of Appeal filed June 11, 2010, and submits this appeal brief. This non-final Office Action was in response to an Appeal Brief filed on December 31, 2009, hence no fee is owed in connection with this Brief's filing.

TABLE OF CONTENTS:

1. Real Party in Interest
2. Related Appeals and Interferences
3. Status of Claims
4. Status of Amendments
5. Summary of Claimed Subject Matter
6. Grounds of Rejection to be Reviewed on Appeal
7. Argument
 - A. Introduction
 - B. Whether Claims 1, 2, 4-8 and 10-13 are Rendered Obvious under 35 U.S.C. §103(a) by U.S. Patent Publication 2002/0170053 to Peterka et al. in view of U.S. Patent 6,697,489 to Candelore and U.S. Patent 5,966,386 to Maegawa.
 - B1. Claims 1, 2, 4-8 and 10-13
 - C. Conclusion
8. CLAIMS APPENDIX
9. RELATED EVIDENCE APPENDIX
10. RELATING PROCEEDINGS APPENDIX

CUSTOMER NO.: 24498
Serial No.: 10/580,806
Non-Final Office Action Dated: March 11, 2010

PATENT
PU030224

1. Real Party in Interest

The real party in interest is THOMSON Licensing S.A., 46 Quai A. Le Gallo, F-92100 Boulogne-Billancourt, France.

CUSTOMER NO.: 24498
Serial No.: 10/580,806
Non-Final Office Action Dated: March 11, 2010

PATENT
PU030224

2. Related Appeals and Interferences

An appeal brief was filed in this Application on December 31, 2009. In view of said appeal brief, the Examiner reopened prosecution and issued the Office Action of March 11, 2010, from which Applicants now appeal.

3. Status of Claims

Claims 1, 2, 4-8 and 10-13 are pending. Claims 1, 2, 4-8 and 10-13 stand rejected and are under appeal. Applicant's Claims 3 and 9 have been cancelled without prejudice.

A copy of the Claims 1, 2, 4-8 and 10-13 is presented in Section 8 below.

CUSTOMER NO.: 24498
Serial No.: 10/580,806
Non-Final Office Action Dated: March 11, 2010

PATENT
PU030224

4. Status of Amendments

No amendment has been filed subsequent to the non-final Office Action of March 11, 2010. Therefore the claims stand as previously presented and as described in Section 8 below.

5. Summary of Claimed Subject Matter

Independent Claim 1 is directed to “[a]n access device” (Claim 1, preamble).

“[M]eans for communicating an impulse purchase selection to a service provider using an out of band frequency which is different than content providing frequencies” as recited in Claim 1 is described, e.g., at: page 6, lines 2-3 and page 6, lines 17-18.

Moreover, the subject matter of this element of Claim 1 involves, e.g.: elements 240, 244, and 245 of FIG. 2.

“[M]eans for receiving an authorization key transmitted by the service provider in response to the impulse purchase selection” as recited in Claim 1 is described, e.g., at: page 6, line 27 – page 7, line 11. Moreover, the subject matter of this element of Claim 1 involves, e.g.: elements 215, 223, 227 and 240 of FIG. 2.

“[M]eans for receiving a program associated with the impulse purchase selection” as recited in Claim 1 is described, e.g., at: page 6, lines 1-2 and page 6, lines 9-11. Moreover, the subject matter of this element of Claim 1 involves, e.g.: elements 215 and 229 of FIG. 2.

“[M]eans for processing the received program using the authorization key” as recited in Claim 1 is described, e.g., at: page 6, lines 9-21. Moreover, the subject matter of this element of Claim 1 involves, e.g.: elements 209, 211, 215, 216 and 217 of FIG. 2.

“[M]eans for generating a billing record in response to the receipt of the authorization key, wherein the access device transmits the billing record to the service provider” as recited in Claim 1 is described, e.g., at: page 6, lines 4-6 and page 7, lines 18-20. Moreover, the subject matter of this element of Claim 1 involves, e.g.: elements 238, 242, 260 and 270 of FIG. 2.

Independent Claim 2 is directed to “[a]n access device” (Claim 2, preamble).

“[M]eans for indicating a desired impulse purchase selection using an out of band frequency which is different than content providing frequencies” as recited in Claim 2 is described, e.g., at: page 6, lines 2-3 and page 6, lines 17-18. Moreover, the subject matter of this element of Claim 2 involves, e.g.: elements 240, 244, and 245 of FIG. 2.

“[M]eans for communicating the desired impulse purchase selection to a service provider” as recited in Claim 2 is described, e.g., at: page 6, lines 2-3 and page 7, lines 2-5. Moreover, the subject matter of this element of Claim 2 involves, e.g.: elements 215, 240 and 245 of FIG. 2.

“[M]eans for receiving an authorization key transmitted to the access device, and specific to, the desired impulse purchase selection” as recited in Claim 2 is described, e.g., at: page 6, line 27 – page 7, line 11. Moreover, the subject matter of this element of Claim 2 involves, e.g.: elements 215, 223, 227 and 240 of FIG. 2.

“[M]eans for receiving the transmission of a desired program associated with the impulse purchase selection” as recited in Claim 2 is described, e.g., at: page 6, lines 9-11. Moreover, the subject matter of this element of Claim 2 involves, e.g.: elements 229 and 215 of FIG. 2.

“[M]eans for processing the received program using the authorization key” as recited in Claim 2 is described, e.g., at: page 6, lines 9-21. Moreover, the subject matter of this element of Claim 2 involves, e.g.: elements 209, 211, 215, 216 and 217 of FIG. 2.

“[M]eans for generating a billing record in response to the receipt of the authorization key, wherein the access device transmits the billing record to the service provider” as recited in Claim 2 is described, e.g., at: page 6, lines 4-6 and page 7, lines

18-20. Moreover, the subject matter of this element of Claim 2 involves, e.g.: elements 238, 242, 260 and 270 of FIG. 2.

Independent Claim 7 is directed to “[a]n access device” (Claim 7, preamble).

“[A] tuning and a communications unit for transmitting an impulse purchase message using an out of band frequency which is different than content providing frequencies and, receiving an authorization key transmitted in response to the transmission of the impulse purchase message and associated with the impulse purchase program” as recited in Claim 7 is described, e.g., at: page 6, lines 2-3, page 6, lines 17-18, and page 6, line 27 – page 7, line 11. Moreover, the subject matter of this element of Claim 7 involves, e.g.: elements 240, 244, 245, 227, 215 and 223 of FIG. 2.

“[A] controller and decoder unit responsive to the authorization key that formats a digital program into a video display” as recited in Claim 7 is described, e.g., at: page 6, lines 8-15 and page 6, line 27 - page 7, line 2. Moreover, the subject matter of this element of Claim 7 involves, e.g.: elements 215, 217, 231 and 233 of FIG. 2.

“[A] billing generator which generates a billing record in response to the receipt of the authorization key, wherein the access device transmits the billing record to the same location as the impulse purchase message” as recited in Claim 7 is described, e.g., at: page 6, lines 4-6 and page 7, lines 18-20. Moreover, the subject matter of this element of Claim 7 involves, e.g.: elements 238, 242, 260 and 270 of FIG. 2.

Independent Claim 8 is directed to “[a] method of providing a secure means for purchasing an impulse purchase program” (Claim 8, preamble).

“[C]ommunicating a message using an out of band frequency which is different than content providing frequencies to a service provider means that indicates an impulse

purchase selection” as recited in Claim 8 is described, e.g., at: page 7, lines 22-24, page 6, lines 2-3, and page 6, lines 17-18. Moreover, the subject matter of this element of Claim 8 involves, e.g.: elements 240, 244 and 245 of FIG. 2 and element 310 of FIG. 3.

“[R]eceiving, at a receiver, authorization information transmitted in response to the communicated message, and specific to the impulse purchase program” as recited in Claim 8 is described, e.g., at: page 7, lines 25-27 and page 6, line 27 – page 7, line 11. Moreover, the subject matter of this element of Claim 8 involves, e.g.: elements 215, 227 and 233 of FIG. 2 and element 320 of FIG. 3.

“[R]eceiving, at a receiver, the impulse purchase program” as recited in Claim 8 is described, e.g., at: page 7, lines 29-30, page 6, lines 9-11 and page 6, lines 27-30. Moreover, the subject matter of this element of Claim 8 involves, e.g.: elements 229 and 215 of FIG. 2 and element 340 of FIG. 3.

“[P]rocessing the impulse purchase program in response to the authorization information” as recited in Claim 8 is described, e.g., at: page 6, lines 8-15 and page 7, lines 30-32. Moreover, the subject matter of this element of Claim 8 involves, e.g.: elements 223 and 233 of FIG. 2 and elements 350 and 360 of FIG. 3.

“[G]enerating a billing record at the receiver in response to the receipt of the authorization key and transmitting the billing record from the receiver to the service provider” as recited in Claim 8 is described, e.g., at: page 6, lines 4-6 and page 7, lines 18-20. Moreover, the subject matter of this element of Claim 8 involves, e.g.: elements 238, 260 and 270 of FIG. 2.

Independent Claim 13 is directed to “[a] method of providing a secure means for purchasing an impulse purchase program” (Claim 13, preamble).

“[S]electing the desired impulse purchase program” as recited in Claim 13 is described, e.g., at: page 6, line 2 and page 7, lines 22-23. Moreover, the subject matter of this element of Claim 13 involves, e.g.: elements 240 of FIG. 2 and elements 301 of FIG. 3.

“[C]ommunicating the desired impulse purchase program selection from an access device to a service provider using an out of band frequency which is different than content providing frequencies” as recited in Claim 13 is described, e.g., at: page 6, lines 2-3, page 6, lines 17-18, and page 7, line 24. Moreover, the subject matter of this element of Claim 13 involves, e.g.: elements 240, 244, and 245 of FIG. 2 and element 310 of FIG. 3.

“[R]esponding to the communicated impulse purchase program selection by transmitting an authorization code to the access device uniquely associated with the desired impulse purchase program” as recited in Claim 13 is described, e.g., at: page 7, lines 25-27 and page 6, line 27 – page 7, line 11. Moreover, the subject matter of this element of Claim 13 involves, e.g.: elements 215, 227 and 233 of FIG. 2 and element 320 of FIG. 3.

“[S]toring the authorization code associated with the desired impulse purchase program into a security module in the access device” as recited in Claim 13 is described, e.g., at: page 7, lines 8-11 and page 7, lines 27-28. Moreover, the subject matter of this element of Claim 13 involves, e.g.: elements 223, 227, 233 and 215 of FIG. 2 and element 330 of FIG. 3.

“[T]ransmitting to the access device an impulse purchase program having an entitlement code associated with authorization code stored in the security module” as

recited in Claim 13 is described, e.g., at: page 7, lines 29-30 and page 6, lines 2-4.

Moreover, the subject matter of this element of Claim 13 involves, e.g.: elements 213 of FIG. 2 and element 340 of FIG. 3.

“[D]ecoding the entitlement code” as recited in Claim 13 is described, e.g., at: page 7, line 30. Moreover, the subject matter of this element of Claim 13 involves, e.g.: element 350 of FIG. 3.

“[C]omparing the entitlement code to the code stored in the security module to permit viewing of the impulse purchase program” as recited in Claim 13 is described, e.g., at: page 7, lines 30-34. Moreover, the subject matter of this element of Claim 13 involves, e.g.: element 360, 370 and 380 of FIG. 3.

“[G]enerating a billing record at the access device in response to the receipt of the authorization key and transmitting the billing record from the access device to the service provider” as recited in Claim 13 is described, e.g., at: page 6, lines 4-6 and page 7, lines 18-20. Moreover, the subject matter of this element of Claim 13 involves, e.g.: element 238, 260 and 270 of FIG. 3.

6. Grounds of Rejection to be Reviewed on Appeal

Claims 1, 2, 4-8 and 10-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication 2002/0170053 to Peterka et al. (hereinafter “Peterka”) in view of US Patent 6,697,489 to Candelore et al. (hereinafter “Candelore”) and US Patent 5,966,386 to Maegawa (hereinafter “Maegawa”).

The preceding rejection under 35 U.S.C. §103(a) is presented for review in this Appeal with respect to Claims 1, 2, 4-8 and 10-13, as argued with respect to independent Claims 1, 2, 7, 8 and 13.

Regarding the grouping of the claims, Claims 4-6 stand or fall with Claim 2, and Claims 10-12 stand or fall with Claim 8, due to their respective dependencies. Claims 1, 7 and 13 stand or fall by themselves.

7. Argument

A. Introduction

In recent years, subscriber broadcast systems have become increasing sophisticated and, nowadays, these broadcast systems offer a wider range of services than ever before. In addition to charging the customer a monthly subscription fee for typical television programming, broadcast systems now provide customers with the opportunity to order specialized broadcasting options such as pay-per-view programs and impulse purchase programs. As explained in the present specification, an “impulse purchase” relates to the situation where a customer decides to watch a program in close proximity to the time the program is broadcast (page 1, lines 19-22).

Although modern subscriber broadcast systems are able to offer customers a wider variety of services, these broadcast systems are plagued with numerous problems, including problems which relate to security issues and billing procedures. Advantageously, the present invention provides a subscriber broadcast system which remedies many of these problems. More particularly, the present invention provides “[a]n access device” (Claims 1, 2 and 7) and “[a] method of providing a secure means for purchasing an impulse purchase program” (Claims 8 and 13) which provide a number of advantages over the prior art and dispense with the problems that plague prior art systems.

In addition, the claims of the pending invention include novel features not shown in the cited references. Thus, it is respectfully asserted that independent Claims 1, 2, 7, 8 and 13 are each patentably distinct and non-obvious over the cited references in their own right. For example, the below-identified elements of independent Claims 1, 2, 7, 8 and

13 are not shown in the cited reference, taken either singly or in any combination.

Accordingly, each of independent Claims 1, 2, 7, 8 and 13 are separately novel and non-obvious with respect to the prior art. As such, independent Claims 1, 2, 7, 8 and 13 are separately patentable and are each presented for review in this appeal.

B. Whether Claims 1, 2, 4-8, and 10-13 are Rendered Obvious under 35 U.S.C. §103(a) by U.S. Patent Publication 2002/0170053 to Peterka et al. in view of U.S. Patent 6,697,489 to Candelore and U.S. Patent 5,966,386 to Maegawa.

The failure of an asserted combination to teach or suggest each and every feature of a claim remains fatal to an obviousness rejection under 35 U.S.C. § 103. Section 2143.03 of the MPEP requires the “consideration” of every claim feature in an obviousness determination. To render a claim unpatentable, however, the Office must do more than merely “consider” each and every feature for this claim. Instead, the asserted combination of the patents must also teach or suggest each and every claim feature. *See In re Royka*, 490 F.2d 981 (CCPA 1974) (emphasis added) (to establish prima facie obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art). Indeed, as the Board of Patent Appeal and Interferences has recently confirmed, a proper obviousness determination requires that an Examiner make “a searching comparison of the claimed invention — including all its limitations — with the teaching of the prior art.” *See In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis in original). “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

The Examiner rejected independent Claims 1, 2, 7, 8 and 13 as being unpatentable over U.S. Patent Publication 2002/0170053 to Peterka et al. (hereinafter “Peterka”) in view of U.S. Patent 6,697,489 to Candelore (hereinafter “Candelore”) and U.S. Patent 5,966,386 to Maegawa (hereinafter “Maegawa”). The Examiner contends that the cited references show all the limitations set forth in Claims 1, 2, 7, 8 and 13.

Paterka is directed to a multicasting system which allows users to view a free preview of programming (Abstract). Paterka permits pay-per-view billing, but does not generate billing information at the client upon the receipt of an authorization code.

Candelore relates to a method and apparatus for securing control words in digital devices (Title; col. 1, lines 14-16). Candelore teaches that a conditional access unit is sent scrambled digital content and an encrypted control word (col. 3, lines 13-17; Claim 1). The control word is decrypted using a key stored in the conditional access device (col. 3, lines 15-18; Claim 1). The decrypted control word is then used to descramble the scrambled digital content (col. 3, lines 17-19; Claim 1).

Maegawa is directed to communications in multimedia networks (Title). While Maegawa allows its users to request programming, all billing information is recorded at the headend in response to user requests. In fact, Maegawa does not disclose or suggest encrypting or scrambling its content and hence does not disclose or suggest the use of authorization keys at all

It will be shown herein below that the limitations of Claims 1, 2, 7, 8 and 13 reproduced herein are not shown in the cited combination of Peterka, Candelore and

Maegawa, and that Claims 1, 2, 7, 8 and 13 should be allowed, including the claims dependent there from as identified in Section 6 herein.

B1. Claims 1, 2, 4-8 and 10-13

Initially, it is respectfully pointed out to the Examiner that Claims 4-6 directly or indirectly depend from independent Claim 2 and Claims 10-12 directly or indirectly depend from independent Claim 8. Thus, Claims 4-6 include all the elements of Claim 2 and Claims 10-12 include all the limitations of Claim 8.

It is respectfully asserted that the cited references, taken either singly or in combination, fail to teach or suggest at least the following elements of independent Claims 1, 2, and 4-6, with the following applicable to Claims 4-6 by virtue of their dependency from claim 2:

means for generating a billing record in response to the receipt of the authorization key...

Moreover, it is respectfully asserted that the cited references, taken either singly or in combination, fail to teach or suggest at least the following elements of independent Claim 7:

a billing generator which generates a billing record in response to the receipt of the authorization key...

Further, it is respectfully asserted that the cited references, taken either singly or in combination, fail to teach or suggest at least the following elements of independent Claim 8 and 10-12, with the following applicable to claims 10-12 due to their dependency from claim 8:

generating a billing record at the receiver in response to the receipt of the authorization key...

It is respectfully asserted that the cited references, taken either singly or in combination, fail to teach or suggest at least the following elements of independent Claim 13:

generating a billing record at the access device in response to the receipt of the authorization key...

The Examiner has acknowledged that neither Peterka nor Candelore can be viewed as teaching or suggesting generating a billing record in response to the receipt of an authorization key. However, the Examiner asserts that Maegawa discloses the generation of such billing records in column 9, lines 19–46. The Applicants respectfully disagree with the Examiner’s reading of the cited sections of Maegawa.

Maegawa states that “Authenticator 328 receives the use request data from the requesting device such as a consumer node ... and sends the request data ... to the requesting device.” Col. 9, lns 19–23. Maegawa then notes that, “The requesting device adds for example a digital signature to each of the order data and payment instruction data ... and outputs this to the authenticator.” Col. 9, lns 23–28. Finally, “The authenticator decodes the data from the requesting device by the decoding key and ... outputs the result of the confirmation to the ... biller....” Col. 9, lns 28–32.

The Examiner asserts that this passage in some fashion reads on generating a billing record in response to the receipt of an authorization key. However, it is clear from FIGs. 2 and 8 that Maegawa’s biller 330 is a part of the information server 32. As such, the user makes requests to the information server and, after a back-and-forth exchange,

the *information server* records billing information. The Examiner asserts that this back-and-forth exchange, which includes the user's signing of its order and payment data, involves a receipt *at the information server* of an authorization key.

Applicants respectfully assert first, that Maegawa does not disclose or suggest authorization keys at all. Applicants next note, *arguendo*, that even if Maegawa did disclose authorization keys, such a key would not have been used to generate a billing record.

At no point does Maegawa in any way describe or suggest authorization keys at all, whether received by the requesting device, the information server, or any other entity. Instead, Maegawa appears to send its content in the clear, with no mention of encrypting or scrambling the content at all. The *only* mention of encryption in the entire reference in fact relates to the transfer of user requests. In the absence of authorization keys, it simply makes no sense to assert that Maegawa teaches billing in *response to* the receipt of an authorization key.

The Examiner points to Maegawa's "order data" and "payment instruction data." However, these data originate from the request device and cannot in any way be construed as authorization keys (i.e., information a device needs in order to decode content). Instead, they merely represent requests by the client to view particular programming and do not contain the authorization required to view said programming. As such, the order data and payment instruction data cannot be reasonably interpreted as reading on authorization keys. The requesting device of Maegawa does not send any key to the information server at all.

Even assuming, for the sake of argument, that a client device did receive an

authorization key of some sort, it is very clear that Maegawa's client device does not enact any sort of billing function in response to said receipt. As noted above, Maegawa's billing takes place at the information server 32, and it would make no sense for the information server to generate records in response to authorization keys—keys which the information server would presumably be *providing* to the requesting device.

Thus, Maegawa does not disclose or suggest the use of authorization keys in any context. Even if Maegawa used authorization keys in some respect, it is very clear that the reference does not disclose or suggest *generating billing records* in response to the receipt of such an authorization key. The Examiner has conceded that neither Candelore nor Peterka teach this feature. Therefore, for at least the reasons set forth above, Claims 1, 2, 7, 8 and 13 are believed to be patentably distinct and non-obvious over the combination of Peterka, Candelore, and Maegawa.

“If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). All remaining claims depend from either Claim 1, 2, 7, 8 or 13, or a claim which itself is dependent from one of these claims. Accordingly, all remaining claims are patentably distinct over the cited references for at least the reasons set forth above. Thus, reconsideration of this rejection is respectfully requested.

C. Conclusion

At least the above-identified limitations of the pending claims are not disclosed or suggested by the teachings of the cited references. Accordingly, it is respectfully requested that the Board reverse the rejections of Claims 1, 2, 4-8 and 10-13 under 35

CUSTOMER NO.: 24498
Serial No.: 10/580,806
Non-Final Office Action Dated: March 11, 2010

PATENT
PU030224

U.S.C. § 103(a).

In the event of any non-payment or improper payment of a required fee, the Commissioner is authorized to charge **Deposit Account No. 07-0832** as required to correct the error.

Respectfully submitted,

BY: /Joel M. Fogelson/
Joel M. Fogelson, Attorney for Applicants
Registration No.: 43,613
Telephone No.: (609) 734-6809

Thomson Licensing Inc.
Patent Operations
P.O. Box 5312
Princeton, NJ 08543-5312
July 12, 2010

8. CLAIMS APPENDIX

1. (Previously Amended) An access device comprising:

means for communicating an impulse purchase selection to a service provider using an out of band frequency which is different than content providing frequencies;

means for receiving an authorization key transmitted by the service provider in response to the impulse purchase selection;

means for receiving a program associated with the impulse purchase selection;

means for processing the received program using the authorization key; and

means for generating a billing record in response to the receipt of the authorization key, wherein the access device transmits the billing record to the service provider.

2. (Previously Amended) An access device comprising:

means for indicating a desired impulse purchase selection using an out of band frequency which is different than content providing frequencies;

means for communicating the desired impulse purchase selection to a service provider;

means for receiving an authorization key transmitted to the access device, and specific to, the desired impulse purchase selection;

means for receiving the transmission of a desired program associated with the impulse purchase selection;

means for processing the received program using the authorization key; and

means for generating a billing record in response to the receipt of the authorization key, wherein the access device transmits the billing record to the service provider.

3. Cancelled.

4. (Original) The access device in claim 2, wherein the means for receiving the authorization key receives the authorization key via an out of band frequency.

5. (Original) The access device in claim 2, wherein the means for communicating the desired impulse purchase utilizes a two way communications interface.

6. (Previously Amended) The access device in claim 5, wherein the billing record transmitted to the service provider is transmitted via the two way communications interface.

7. (Previously Amended) An access device comprising:

a tuning and a communications unit for transmitting an impulse purchase message using an out of band frequency which is different than content providing frequencies and, receiving an authorization key transmitted in response to the transmission of the impulse purchase message and associated with the impulse purchase program;

a controller and decoder unit responsive to the authorization key that formats a digital program into a video display; and

a billing generator which generates a billing record in response to the receipt of the authorization key, wherein the access device transmits the billing record to the same location as the impulse purchase message.

8. (Previously Amended) A method of providing a secure means for purchasing an impulse purchase program comprising the steps of:

communicating a message using an out of band frequency which is different than content providing frequencies to a service provider means that indicates an impulse purchase selection;

receiving, at a receiver, authorization information transmitted in response to the communicated message, and specific to the impulse purchase program;

receiving, at a receiver, the impulse purchase program;

processing the impulse purchase program in response to the authorization information;
and

generating a billing record at the receiver in response to the receipt of the authorization key and transmitting the billing record from the receiver to the service provider.

9. Cancelled.

10. (Original) The method of claim 8, wherein the receiving step comprises receiving the authorization via an out of band frequency.

11. (Original) The method of claim 8, wherein the communicating step comprises communicating the message via a two way communications interface.

12. (Previously Amended) The method of claim 8, wherein the billing record is transmitted to the service provider via the two way communications interface.

13. (Previously Amended) A method of providing a secure means for purchasing an impulse purchase program comprising the steps of:

selecting the desired impulse purchase program;

communicating the desired impulse purchase program selection from an access device to a service provider using an out of band frequency which is different than content providing frequencies;

responding to the communicated impulse purchase program selection by transmitting an authorization code to the access device uniquely associated with the desired impulse purchase program;

storing the authorization code associated with the desired impulse purchase program into a security module in the access device;

transmitting to the access device an impulse purchase program having an entitlement code associated with authorization code stored in the security module;

decoding the entitlement code;

comparing the entitlement code to the code stored in the security module to permit viewing of the impulse purchase program; and

generating a billing record at the access device in response to the receipt of the authorization key and transmitting the billing record from the access device to the service

CUSTOMER NO.: 24498
Serial No.: 10/580,806
Non-Final Office Action Dated: March 11, 2010

PATENT
PU030224

provider.

CUSTOMER NO.: 24498
Serial No.: 10/580,806
Non-Final Office Action Dated: March 11, 2010

PATENT
PU030224

9. RELATED EVIDENCE APPENDIX

None.

CUSTOMER NO.: 24498

Serial No.: 10/580,806

Non-Final Office Action Dated: March 11, 2010

PATENT

PU030224

10. RELATED PROCEEDINGS APPENDIX

None